

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA,
Plaintiff

09 CR 135 (SJ)

v.

ORDER ADOPTING
REPORT AND
RECCOMENDATION

JOHN A BURKE, et. al,
Defendant.

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A P P E A R A N C E S:

UNITED STATES ATTORNEY

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JOHNSON, Senior District Judge:

Presently before the Court is a Report and Recommendation (“Report”) prepared by Magistrate Judge James Orenstein. Judge Orenstein issued the Report on October 16, 2009, and provided the parties with more than the requisite amount of time to file any objections. The defense filed its objections to the Report on October 27, 2009. The government did not file any objections to the Report. For the reasons stated herein, this Court affirms and adopts the Report in its entirety.

A district court may designate a magistrate judge to hear and determine certain motions pending before the Court and to submit to the court proposed findings of fact and a recommendation as to the disposition of the motion. See 28 U.S.C. §636(b)(1). Within 10 days of service of the recommendation, any party may file written objections to the magistrate’s report. See Id. Upon de novo review of those portions of the record to which objection were made, the district court may affirm or reject the recommendations. See Id.

The Court is not required to review, under a de novo or any other standard, factual or legal conclusions of the magistrate judge as to those portions of the report and recommendation to which no objections are addressed. See Thomas v. Arn, 474 U.S. 140, 150 (1985). In addition, failure to file timely objections may waive the right to appeal this Court’s Order. See 28 U.S.C.

636(b0(1), Small v. Sec'y of Health and Human Servs., 892 F.2d 15, 16 (2d Cir. 1989).

Upon observing and hearing the testimony provided by government witnesses, F.B.I. Special Agent Timothy Gorman (“Gorman”), Judge Orenstein found Gorman’s testimony credible. Judge Orenstein pointed to the fact that Defendant Cadicamo declined to allow the government to cross-examine him on the factual assertions in his findings that Cadicamo’s contrary assertions should not be accorded any weight. After reviewing Judge Orenstein’s Report and the defense’s objections, the Court concludes that the defense has not raised any new arguments that would convince this Court to reject Orenstein’s well-reasoned recommendations.

Accordingly, this Court will defer to the findings of Judge Orenstein and it affirms and adopts the Report in its entirety. The motion to suppress is DENIED.

SO ORDERED.

Dated: November 24, 2009
Brooklyn , NY

_____/s_____
Senior United States District Judge